

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA		
v.		No. 3:22-CR-00327-1
		JUDGE TRAUGER
[1] CHESTER GALLAGHER		
[2] HEATHER IDONI		
[3] CALVIN ZASTROW		
[4] COLEMAN BOYD		
[5] CAROLINE DAVIS		
[6] PAUL VAUGHN		
[7] DENNIS GREEN		
[8] EVA EDL		
[9] EVA ZASTROW		
[10] JAME ZASTROW		
[11] PAUL PLACE		

**UNOPPOSED MOTION TO ENLARGE PRETRIAL MOTION FILING DEADLINE
AND REQUEST FOR A STATUS CONFERENCE**

Come now the defendants, Chester Gallagher [1], Heather Idoni [2], Calvin Zastrow [3], Coleman Boyd [4], Caroline Davis [5], Paul Vaughn [6], Dennis Green [7], Eva Edl [8], Eva Zastrow [9], James Zastrow [10], and Paul Place [11], by and through undersigned counsel, and hereby move this Court to enlarge the November 30, 2022¹ pretrial motion filing deadline and to

¹ The Court's scheduling order indicates that pretrial motions are due twenty-eight days from arraignment (DE 117); Mr. Gallagher was arraigned on November 2, 2022, making his pretrial motions due on November 30, 2022.

schedule a status conference so that the parties can discuss scheduling, whether the currently scheduled January 10, 2023 trial date (DE 117) is feasible and, if not, what trial dates are feasible.

In support of this motion, Mr. Gallagher and his codefendants submit as follows:

The above referenced indictment charges Mr. Gallagher [1], along with codefendants Heather Idoni [2], Calvin Zastrow [3], Coleman Boyd [4], Caroline Davis [5], Paul Vaughn [6], Dennis Green [7], Eva Edl [8], Eva Zastrow [9], James Zastrow [10] and Paul Place [11], with various offenses related to their presence on March 5, 2021 at the carafem Health Center in Mt. Juliet, Tennessee (DE 3). Defendants Gallagher [1], Idoni [2], Calvin Zastrow [3], Boyd [4], Davis [4], Vaughn [6] and Green [7] are charged with conspiring to injure, oppress, threaten or intimidate any rights secured by the laws or constitution of the United States in violation of 18 U.S.C. § 241 (DE 3); this is a felony offense that carries up to ten years imprisonment. *See* 18 U.S.C. § 241. All eleven defendants are charged with a violation of Title 18 U.S.C. §§ 248 (a)(1) and 2 (DE 3); a first-time offender of this statute faces up to a year in jail, whereas a second time or subsequent offender faces up to three years imprisonment. *See* 18 U.S.C. §§ 248 (b).

To further clarify the charges, these defendants are being charged pursuant to the Freedom of Access to Clinic Entrances Act, 18 U.S.C. § 248 (“FACE” or the “FACE Act”) and with a conspiracy to violate the FACE Act. The Face Act provides for civil remedies and criminal penalties where a person:

- (1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from obtaining or providing reproductive health services.

18 U.S.C. section 248(a). The conspiracy alleged in Count One clearly seems to embrace count two and specifically alleges that Gallagher [1], Idoni [2], Calvin Zastrow [3], Boyd [4], Davis [4],

Vaughn [6] and Green [7], conspired to injure, oppress, threaten and intimidate patients and employees in their free exercise and enjoyment of rights and privileges secured to them by the laws of the United States, specifically the right to obtain and seek to obtain, and to provide and seek to provide reproductive health services, as provided by 18 U.S.C. § 248 (c) and in violation of 18 U.S.C. § 241. It appears from the government discovery and a comprehensive reading of the indictment that the defendants are alleged to have intentionally intimidated or interfered with clinic staff or patients by physically obstructing the staff and patients' access to and from the clinic.

In sum, the defendants are alleged to have been present on March 5, 2021 at the Carafem Health Center in Mt Juliet, Tennessee and are alleged to have interfered with patients and employees seeking access to the clinic by physically obstructing, or standing in the way of, patient and staff access to the clinic (DE 3). On that date, many of the defendants, including Mr. Gallagher, were arrested by the Mt. Juliet police and charged with criminal trespass; several of the above defendants, including Mr. Gallagher, still have charges pending in Mt. Juliet, Tennessee and have trial dates scheduled for January 2023; undersigned counsel has confirmed a January 9, 2023 court date and a February 1, 2023 trial date. As for the federal charges, while the alleged criminal offenses occurred on March 5, 2021, the Grand Jury did not meet and return the above indictment until October 3, 2022 (DE 3) nearly eighteen months later.

The government has provided an initial discovery disclosure that required a one terabyte hard drive. The government anticipates an additional discovery disclosure within the next several weeks. A cursory review of the discovery includes video evidence, numerous police reports, social media postings, and a significant amount of phone company records. This initial review of the discovery indicates there may be grounds for pretrial motions to sever, motions to exclude 404(b) evidence, and a motion to dismiss for denial of due process attributable to pre-indictment delay.

Mr. Gallagher's investigation is on-going and will *not be completed by November 30, 2022*, the pretrial motion filing deadline. Additionally, Mr. Gallagher does not know if he can be prepared for a jury trial on January 10, 2023 because he still does not have all of the discovery, he has not yet thoroughly reviewed the discovery he has and his investigation is incomplete. Notably, it took the government over eighteen months to complete its investigation and return the above indictment (DE 3).

Undersigned counsel have conferred with the co-defendants and they do not object to this motion. The following defendants have joined in this motion: Heather Idoni [2], Calvin Zastrow [3], Coleman Boyd [4], Caroline Davis [5], Paul Vaughn [6], Dennis Green [7], James Zastrow [10], and Paul Place [11]. Defense counsel jointly submit that a status conference would be helpful to discuss a realistic trial date, whether all defendants would be tried together (four of them appear to be facing only misdemeanor offenses), and other scheduling matters. The defendants have been unable to reach a mutually agreeable alternate trial date to propose to the Court should one or several of the defendants move to continue the January 10, 2023 trial date. As for the status conference, several defendants and several attorneys reside out of state and would request the option of appearing telephonically.

Counsel for Mr. Gallagher has also conferred with Assistant United States Attorney Amanda Klopf about the instant motion. Ms. Klopf has no objection to this motion.

Based upon the foregoing, Mr. Gallagher and his codefendants request that this Court grant the instant motion and enlarge the pretrial motion filing deadline, set this case for a status conference and allow those attorneys and defendants who are out of state to appear telephonically.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion to Continue was filed electronically and served on the following by the EF/CME electronic filing system:

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This the 22nd day of November 2022.

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